

1 TIMOTHY S. CORY, ESQ.

2 Nevada Bar No. 1972

3 JASON C. FARRINGTON, ESQ.

Efiled: 1/10/2011

4 Nevada Bar No. 8063

TIMOTHY S. CORY & ASSOCIATES

5 8831 West Sahara Avenue

6 Las Vegas, Nevada 89117

7 Telephone (702) 388-1996

8 tim.cory@corylaw.us

9 Attorneys for the Trustee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

10 **IN RE:**

CHAPTER 7 BANKRUPTCY

11 **MCDONALD, MICHAEL JAMES**

Case No. BK-S-09-19000-LBR

DATE: February 10, 2011

12 **Debtor.**

TIME: 11:00 AM

**TRUSTEE'S MOTION FOR AN ORDER AUTHORIZING THE SALE OF NON
EXEMPT PROPERTY OF THE ESTATE, MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF AND PROPOSED ORDER.**

17 William A. Leonard, Jr., the duly appointed Chapter 7 Trustee (the "Trustee"), by and
18 though his counsel, Timothy S. Cory & Associates, hereby moves this Court for an order
19 approving the sale of the estate's interest in non-exempt property, pursuant to 11 U.S.C.
20 §363(f).

21 This motion is made and based upon the attached Points and Authorities, the papers and
22 pleadings on file herein and any oral argument that the Court may entertain at the time of any
23 hearing on this motion.

24 Dated: January 10, 2011

25 /s/ Timothy S. Cory
26 TIMOTHY S. CORY, ESQ.
27 Attorneys for the Trustee
28

MEMORANDUM OF POINTS AND AUTHORITIES AND TERMS OF PROPOSED SALE

The Trustee wishes to sell the estate's interest in the following property:

FN HERSTAL FNH 5.7X28 CAL PISTOL
FN HERSTAL FNH 5.7X28 CAL PISTOL
HK USP 9MM PISTOL
DESERT EAGLE 50CAL PISTOL
GLOCK 27 40CAL PISTOL
WALTHER PPK/S 380 CAL PISTOL
S&W MODEL 18-7 357MAG REVOLVER
GLOCK 20 10MM PISTOL
GLOCK 29 10MM PISTOL
GLOCK 21 45CAL PISTOL
GLOCK 30 45CAL PISTOL
GLOCK 26 9MM PISTOL
GLOCK 36 45 CAL PISTOL
COLT M1991A1 45CAL PISTOL
BERETTA 92FS 9MM PISTOL
BERETTA 950 25CAL PISTOL
GERMAN 380CAL PISTOL
KELTEC 223CAL PLR-14 PISTOL
INGRAM MAC-10 9MM FULL AUTO PISTOL
INGRAM MAC-10 9MM FULL AUTO PISTOL
MOSSBERT 590 12GA SHOTGUN 14"BARREL CLASSIII
BOWERS CAC9 9MM SUPPRESSOR
BOWERS CAC9 9MM SUPPRESSOR
1981 Chevrolet Pick-up
1989 Chevrolet Corvette
2000 Harley Davidson Fatboy
2007 GMC Denali (non exempt portion)

The property is to be sold pursuant to this Motion. The total appraised value of these assets is \$62,865.00, attached hereto as Exhibit "A" are the appraisal preformed by Daniel C. Watson of DWDW, Inc. After the Debtor's claimed exemptions the value of these assets is reduced to \$35,865.00, attached hereto as Exhibit "B" is the debtor's Schedule C. Trustee desires to sell the estate's interest in this certain property back to the Debtor, for the total amount of THIRTY THOUSAND AND 00/100 DOLLARS (\$30,000.00), all of which is in the Trustee's possession. Debtor/Buyer, shall be responsible to indemnify for and arrange for preparation of

1 all documents necessary for the transfer of interest. The Debtor/Buyer is acquiring the estate's
 2 interest, subject to all liens and encumbrances and shall be responsible therefore. Upon
 3 approval of this Motion, Trustee shall execute any and all documents required to pass said
 4 property interest to the buyer.
 5

6 Trustee prefers to sell the nonexempt assets back to the Debtor to avoid the effort to
 7 market said property and avoid the fees, costs and commissions of an Auctioneer or other third
 8 party, which would burden the estate. If the Trustee were to pursue to market the non exempt
 9 assets it would cost the estate additional fees and expenses. This would result in a decreased
 10 net recovery for creditors.
 11

12 Trustee recommends the proposed sale and manner of sale inasmuch as the amount
 13 received from the proposed sale is believed to be in excess of any amount the estate would
 14 receive by means of any alternative sale.

15 LEGAL DISCUSSION

16 Authority for the sale of property outside of the ordinary course of business, free and clear
 17 of liens and encumbrances, as set forth in 11 U.S.C. § 363, which provides in pertinent part:
 18

- 19 (f) The trustee may sell property under subsection (b) or (c) of this
 20 section, free and clear of any interest in such property of an entity
 21 other than the estate only if –
 22 a)applicable nonbankruptcy law permits sale of such property free and
 23 clear of such interest;
 24 b)such entity consents;
 25 c)such interest is a lien and the price at which such property is to be sold is
 26 greater than the aggregate value of all liens on such property;
 27 d)such interest is in bona fide dispute; or
 28

1 e)such entity could be compelled, in a legal or equitable proceeding, to
2 accept a money satisfaction of such interest.

3 (See also In Re: Gerwer, 898 F. 2d 730 (9th Cir. 1990)

4 The Trustee also seeks authorization to execute any and all documents required to pass the
5 registration of the subject property to the purchaser.
6

7 11 U.S.C. §363(b)(1) authorizes the Trustee to sell property of the estate, after notice and
8 a hearing.

9 WHEREFORE, the Trustee hereby moves this Court for approval of this sale on the terms
10 set forth herein, for any other relief the Court deems just and proper.
11

12
13 DATED: January 10, 2011

14 /s/ Timothy S. Cory
15 Timothy S. Cory
16 Timothy S. Cory & Associates
17 Attorneys for the Trustee
18
19
20
21
22
23
24
25
26
27
28

1 ***Proposed Order***
2
3
4
5

6 TIMOTHY S. CORY, ESQ.
7 Nevada Bar No. 1972
8 JASON C. FARRINGTON, ESQ.
9 Nevada Bar No. 8063
10 **TIMOTHY S. CORY & ASSOCIATES**
11 8831 West Sahara Avenue
12 Las Vegas, Nevada 89117
13 Telephone (702) 388-1996
14 tim.cory@corylaw.us
15 Attorneys for the Trustee

12 **UNITED STATES BANKRUPTCY COURT**
13 **DISTRICT OF NEVADA**

14 In re:) **BK-S-09-19000-LBR**
15) Chapter 7
16 **MCDONALD, MICHAEL JAMES**)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)
Debtor.)
Date: February 10, 2011
Time: 11:00 a.m.

19 **ORDER GRANTING TRUSTEE'S MOTION FOR AN ORDER AUTHORIZING THE**
20 **SALE OF NON EXEMPT PROPERTY OF THE ESTATE AND MEMORANDUM**
21 **OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**

22 The *Trustee's Motion for an Order Authoring the Sale of Non Exempt Property of the*
23 *Estate* (the "Motion") came before the Court for consideration on February 10, 2011, a United
24 States Bankruptcy Judge presiding. Timothy S. Cory of Timothy S. Cory & Associates appeared
25 on behalf of William A. Leonard, Jr., Trustee.

26 ///

27 ///

1 The Court, having reviewed the Motion, the related notice (the "Notice") and other
2 pleadings filed in connection with this matter, having heard the statements of counsel, having
3 determined that good and sufficient cause exists for the Motion, and having entered findings of
4 fact and conclusions of law on the record, which are incorporated herein by reference, it is
5 hereby:

6 ORDERED that the Trustee's Motion for an Order Authoring the Sale of Non Exempt Property
7 of the Estate is hereby GRANTED.

8 Trustee is authorized to sell:

9 FN HERSTAL FNH 5.7X28 CAL PISTOL
10 FN HERSTAL FNH 5.7X28 CAL PISTOL
11 HK USP 9MM PISTOL
12 DESERT EAGLE 50CAL PISTOL
13 GLOCK 27 40CAL PISTOL
14 WALTHER PPK/S 380 CAL PISTOL
15 S&W MODEL 18-7 357MAG REVOLVER
16 GLOCK 20 10MM PISTOL
17 GLOCK 29 10MM PISTOL
18 GLOCK 21 45CAL PISTOL
19 GLOCK 30 45CAL PISTOL
20 GLOCK 26 9MM PISTOL
21 GLOCK 36 45 CAL PISTOL
22 COLT M1991A1 45CAL PISTOL
23 BERETTA 92FS 9MM PISTOL
24 BERETTA 950 25CAL PISTOL
25 GERMAN 380CAL PISTOL
26 KELTEC 223CAL PLR-14 PISTOL
27 INGRAM MAC-10 9MM FULL AUTO PISTOL
28 INGRAM MAC-10 9MM FULL AUTO PISTOL
MOSSBERT 590 12GA SHOTGUN 14"BARREL CLASSIII
BOWERS CAC9 9MM SUPPRESSOR
BOWERS CAC9 9MM SUPPRESSOR
1981 Chevrolet Pick-up
1989 Chevrolet Corvette
2000 Harley Davidson Fatboy
2007 GMC Denali (non exempt portion)

for the total amount of THIRTY THOUSAND AND 00/100 DOLLARS (\$30,000.00.)

Debtor/Buyer, shall be responsible to indemnify for and arrange for preparation of all documents
necessary for the transfer of interest.

///

1
2 IT IS FURTHER ORDERED that Trustee William A. Leonard, Jr., may have the power and
3 authority to sign any other documents deemed necessary to consummate said settlement.

4 Respectfully submitted by:

5
6 /s/ Timothy S. Cory
7 Timothy S. Cory, Esq.
8 Timothy S. Cory & Associates
9

10 ###
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTACHMENT "A"

FN HERSTAL FNH 5.7X28CAL PISTOL 386104057.....	425.00
FN HERSTAL FNH 5.7X28CAL PISTOL 386104068.....	425.00
COLT 25 TH ANNIVERSARY 45CAL PISTOL LVMPO3694.....	500.00
HK USP 9MM PISTOL 243741.....	425.00
DESERT EAGLE 50CAL PISTOL 32203344.....	700.00
GLOCK 27 40CAL PISTOL GBB921US.....	375.00
WALTHER PPK/S 380CAL PISTOL S146472.....	285.00
S&W MODEL 18-7 357MAG REVOLVER BSC421Z.....	225.00
GLOCK 20 10MM PISTOL DDM234US.....	400.00
GLOCK 29 10MM PISTOL CDH914US.....	400.00
GLOCK 21 45CAL PISTOL BCT941US.....	400.00
GLOCK 30 45CAL PISTOL CDM995US.....	400.00
GLOCK 26 9MM PISTOL BSX288US.....	400.00
GLOCK 36 45CALPISTOL FR4966.....	400.00
COLT M1991A1 45CAL PISTOL CUD6300.....	375.00
BERETTA 92FS 9MM PISTOL SER109478.....	400.00
BERETTA 950 25CAL PISTOL BER80770V.....	120.00
GERMAN 380CAL PISTOL 98937.....	60.00
KELTEC .223CAL PLR-14 PISTOL P1M12.....	450.00
INGRAM MAC-10 9MM FULL AUTO PISTOL A6941657.....	2,200.00
INGRAM MAC-10 9MM FULL AUTO PISTOL A6041656.....	2,200.00
THOMPSON AUTO ORDNANCE CORP NAVY 1928 45CAL SUB-MACHINE GUN 13685.....	10,500.00
MOSSBERG 590 12GA SHOTGUN 14" BARREL CLASSIII.....	300.00
BOWERS CAC9 9MM SUPPRESSOR.....	450.00
BOWERS CAC9 9MM SUPPRESSOR.....	450.00
TOTAL.....	\$23,265.00

EXHIBIT A

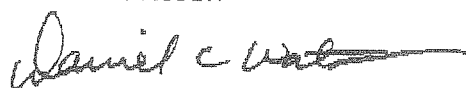
VEHICLE APPRAISAL

February 9, 2010REGISTERED OWNER: Michael McDonaldYEAR & MAKE: 1981 Chevrolet P/UVEHICLE ID#: 1GCEK14H9BZ114289OPTIONS: A/C ☒ AM-FM ☒ TAPE ☒ CD PLAYER ☐ CRUISE CONTROL ☐ 4X4 ☒ MANUAL TRANS ☐POWER WINDOW ☐ POWER LOCKS ☐ POWER SEAT ☐ TILT WHEEL ☐ LEATHER UPHOLSTERY ☐SUN ROOF ☐ CONVERTIBLE ☐ T-TOPS ☐ EXTENDED CAB ☐ CUSTOM WHEELS ☒ ABS ☐MILEAGE: 116,154 LOW ☐ NORMAL ☐ HIGH ☒ EXTREME ☐MECHANICAL GOOD ☐ FAIR ☒ POOR ☐PAINT: GOOD ☒ FAIR ☐ POOR ☐UPHOLSTERY: GOOD ☒ FAIR ☐ POOR ☐BODY: GOOD ☒ FAIR ☐ POOR ☐OVER ALL CONDITION GOOD ☐ FAIR ☒ POOR ☐ SALVAGE ☐

COMMENTS: _____

KELLY BLUE BOOK BASE WHOLESALE PRICE: \$4,500⁵⁰AUCTION VALUE BASED ON PREVIOUS SALES: \$3,100²⁰

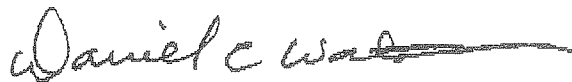
DANIEL C. WATSON

DWDW, INC.
4458 DALZELL COURT
LAS VEGAS, NV. 89120
(702) 768-6966APPRAISAL FEE: \$25.00 ☒ \$40.00 ☐ PAID

VEHICLE APPRAISAL

February 9 2010REGISTERED OWNER: Michael McDonaldYEAR & MAKE: 1989 Chevrolet CorvetteVEHICLE ID#: 1G1YY3182K5102514OPTIONS: A/C ☒ AM-FM ☒ TAPE ☒ CD PLAYER ☒ CRUISE CONTROL ☒ 4X4 ☐ MANUAL TRANS ☐POWER WINDOW ☒ POWER LOCKS ☒ POWER SEAT ☒ TILT WHEEL ☒ LEATHER UPHOLSTERY ☒SUN ROOF ☐ CONVERTIBLE ☒ T-TOPS ☐ EXTENDED CAB ☐ CUSTOM WHEELS ☐ ABS ☐MILEAGE: 107,517 LOW ☐ NORMAL ☐ HIGH ☒ EXTREME ☐MECHANICAL GOOD ☐ FAIR ☒ POOR ☐PAINT: GOOD ☐ FAIR ☒ POOR ☐UPHOLSTERY: GOOD ☐ FAIR ☒ POOR ☐BODY: GOOD ☒ FAIR ☐ POOR ☐OVER ALL CONDITION GOOD ☐ FAIR ☒ POOR ☐ SALVAGE ☐COMMENTS: needs new soft top and electrical repairsKELLY BLUE BOOK BASE WHOLESALE PRICE: \$ 8,700⁰⁰AUCTION VALUE BASED ON PREVIOUS SALES: \$ 4,700⁰⁰

DANIEL C. WATSON

DWDW, INC.
4458 DALZELL COURT
LAS VEGAS, NV. 89120
(702) 768-6966APPRAISAL FEE: \$25.00 ☒ \$40.00 ☐ PAID

VEHICLE APPRAISAL

February 9 2010REGISTERED OWNER: Michael McDonaldYEAR & MAKE: 2000 Harley Davidson FatBoy m/cVEHICLE ID#: 1HD1BMY12Y4A72591

OPTIONS: A/C___ AM-FM___ TAPE___ CD PLAYER___ CRUISE CONTROL___ 4X4___ MANUAL TRANS___

POWER WINDOW___ POWER LOCKS___ POWER SEAT___ TILT WHEEL___ LEATHER UPHOLSTERY___

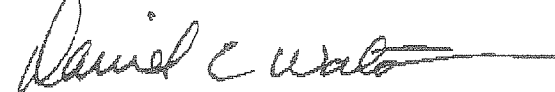
SUN ROOF___ CONVERTIBLE___ T-TOPS___ EXTENDED CAB___ CUSTOM WHEELS___ ABS___

MILEAGE: 2355 LOW ☒ NORMAL___ HIGH___ EXTREME___MECHANICAL GOOD ☒ FAIR___ POOR___PAINT: GOOD ☒ FAIR___ POOR___UPHOLSTERY: GOOD ☒ FAIR___ POOR___BODY: GOOD ☒ FAIR___ POOR___OVER ALL CONDITION GOOD ☒ FAIR___ POOR___ SALVAGE___

COMMENTS: _____

KELLY BLUE BOOK BASE WHOLESALE PRICE: \$ 8,800⁰⁰AUCTION VALUE BASED ON PREVIOUS SALES: \$ 7,800⁰⁰

DANIEL C. WATSON

DWDW, INC.
4458 DALZELL COURT
LAS VEGAS, NV. 89120
(702) 768-6966APPRAISAL FEE: \$25.00 ☒ \$40.00___ PAID

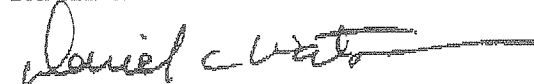
VEHICLE APPRAISAL

February 9, 2010REGISTERED OWNER: Michael McDonaldYEAR & MAKE: 2007 GMC DenaliVEHICLE ID#: 1GKFK66807J199547OPTIONS: AC ☒ AM-FM ☒ TAPE ☐ CD PLAYER ☒ CRUISE CONTROL ☒ 4X4 ☒ MANUAL TRANS ☐
POWER WINDOW ☒ POWER LOCKS ☒ POWER SEAT ☒ TILT WHEEL ☒ LEATHER UPHOLSTERY ☒
SUN ROOF ☒ CONVERTIBLE ☐ T-TOPS ☐ EXTENDED CAB ☐ CUSTOM WHEELS ☒ ABS ☒MILEAGE: 39,921 LOW ☒ NORMAL ☐ HIGH ☐ EXTREME ☐MECHANICAL GOOD ☒ FAIR ☐ POOR ☐PAINT: GOOD ☒ FAIR ☐ POOR ☐UPHOLSTERY: GOOD ☒ FAIR ☐ POOR ☐BODY: GOOD ☒ FAIR ☐ POOR ☐OVER ALL CONDITION GOOD ☒ FAIR ☐ POOR ☐ SALVAGE ☐

COMMENTS: _____

KELLY BLUE BOOK BASE WHOLESALE PRICE: \$30,900⁰⁰AUCTION VALUE BASED ON PREVIOUS SALES: \$24,000⁰⁰

DANIEL C. WATSON

DWDW, INC.
4458 DALZELL COURT
LAS VEGAS, NV. 89120
(702) 768-6966APPRAISAL FEE: \$25.00 ☒ \$40.00 ☐ PAID

B6C (Official Form 6C) (12/07)

In re **MICHAEL JAMES MCDONALD**Case No. **09-19000-LBR**

Debtor

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT - AMENDEDDebtor claims the exemptions to which debtor is entitled under:
(Check one box)

- ☐ 11 U.S.C. §522(b)(2)
☒ 11 U.S.C. §522(b)(3)

☒ Check if debtor claims a homestead exemption that exceeds \$136,875.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
<u>Real Property</u>			
HOME-2520 PINTO LANES, Las Vegas NV - (1ST & 2ND MORTGAGE)	Nev. Rev. Stat. § 21.090(1)(m)	500,000.00	500,000.00
<u>Checking, Savings, or Other Financial Accounts, Certificates of Deposit</u>			
WELLS FARGO-CHECKING	Nev. Rev. Stat. § 21.090(1)(g)	100.50	134.00
BANK OF AMERICA-CHECKING	Nev. Rev. Stat. § 21.090(1)(g)	1,575.00	2,100.00
NEV. FED. C.U.	Nev. Rev. Stat. § 21.090(1)(g)	246.75	329.00
<u>Household Goods and Furnishings</u>			
HOUSEHOLD GOODS	Nev. Rev. Stat. § 21.090(1)(b)	2,000.00	2,000.00
<u>Books, Pictures and Other Art Objects; Collectibles</u>			
USED FAMILY PHOTOS AND ALBUMS, USED CD'S AND DVDS	Nev. Rev. Stat. § 21.090(1)(a)	200.00	200.00
<u>Wearing Apparel</u>			
WEARING APPAREL	Nev. Rev. Stat. § 21.090(1)(b)	2,000.00	2,000.00
<u>Firearms and Sports, Photographic and Other Hobby Equipment</u>			
COLT 25TH ANNIVERSARY 45 CAL PISTOL LVMP03694	Nev. Rev. Stat. § 21.090(1)(a)	500.00	500.00
THOMPSON AUTO ORDNANCE CORP NAVY 1928 45CAL SUB-MACHINE GUN 13685	Nev. Rev. Stat. § 21.090(1)(i)	10,500.00	10,500.00
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
2007 GMC DENALI	Nev. Rev. Stat. § 21.090(1)(f) Nev. Rev. Stat. § 21.090(1)(z)	15,000.00 1,000.00	24,000.00

EXHIBIT

B